AT-12157 22w

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PATENT APPLICATION

ATTORNEY DOCKET NO. ___10010052-1___

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Brown, et al.	Confirmation No.: 8188
Application No.: 09/954,796	Examiner: Sall, El Hadji
Filing Date: 9-10-01	Group Art Unit: 2157

Title: System and Method for Distributing Software

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TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on ___2-2-06___.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) $500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐ 1st Month $120   ☐ 2nd Month $450   ☐ 3rd Month $1020   ☐ 4th Month $1590

☐ The extension fee has already been filed in this application.

☒ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of ___$ 500___. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Respectfully submitted,

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By

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Rev 10/05 (AplBrief)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Brown, et al.

Serial No.: 09/954,796

Filed: September 10, 2001

For: **System and Method for Distributing Software**

Group Art Unit: 2157

Examiner: Sall, El Hadji

Docket No. 10010052-1

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

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Sir:

This Appeal Brief under 37 C.F.R. § 41.37 is submitted in support of the Notice of Appeal filed February 2, 2006, responding to the Final Office Action mailed November 2, 2005.

It is not believed that extensions of time or fees are required to consider this Appeal Brief. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to Deposit Account No. 08-2025.

I. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. Related Appeals and Interferences

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

III. Status of Claims

Claims 1-44 stand finally rejected. No claims have been allowed. The final rejections of claims 1-44 are appealed.

IV. Status of Amendments

This application was originally filed on September 10, 2001, with thirty-six (36) claims. In a Response filed February 28, 2006, Applicant amended claims 1-7, 21-23, 25-27, 29-31, and 33-35. In a Response filed August 16, 2005, Applicant added new claims 37-44.

All of the above-identified amendments have been entered and no other amendments have been made to any of claims 1-44. The claims in the attached Claims Appendix (see below) reflect the present state of those claims.

V. Summary of Claimed Subject Matter

The claimed inventions are summarized below with reference numerals and references to the written description ("specification") and drawings. The subject matter described in the following appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Independent claim 1 describes a method for distributing software. The method comprises querying a user as to the needs of the user. Applicant's specification, page 2, lines 20-24; page 10, line 24 to page 11, line 8; page 14, lines 7-9; Figure 4, item 418; Figure 5, item 518.

The method of claim 1 further comprises receiving user responses to the query. Applicant's specification, page 11, lines 12-13; page 14, lines 10-12; Figure 4, item 420; Figure 5, item 520.

The method of claim 1 further comprises characterizing the use of the user based upon the user responses. Applicant's specification, page 11, lines 15-18; page 14, lines 10-12; Figure 4, item 422; Figure 5, item 522.

The method of claim 1 further comprises providing software programs that may be beneficial to the user based upon the characterization of the use. Applicant's specification, page 11, line 23 to page 12, line 2; page 14, lines 12-15; Figure 4, item 424; Figure 5, item 524.

Independent claim 10 describes a system (200, Fig. 2; 312, Fig. 3) for distributing software. The system comprises means for querying a user as to the needs of the user. Applicant's specification, page 2, lines 20-24; page 10, line 24 to page 11, line 8; page 14, lines 7-9; Figure 4, item 418; Figure 5, item 518.

The system of claim 10 further comprises means for receiving user responses to the query. Applicant's specification, page 11, lines 12-13; page 14, lines 10-12; Figure 4, item 420; Figure 5, item 520.

The system of claim 10 further comprises means for characterizing the use of the user based upon the user responses. Applicant's specification, page 11, lines 15-18; page 14, lines 10-12; Figure 4, item 422; Figure 5, item 522.

The system of claim 10 further comprises means for providing software programs that may be beneficial to the user based upon the characterization of the use. Applicant's specification, page 11, line 23 to page 12, line 2; page 14, lines 12-15; Figure 4, item 424; Figure 5, item 524.

Independent claim 17 describes a software program (200, Fig. 2; 312, Fig. 3) stored on a computer-readable medium. The program comprises logic configured to query a user as to the needs of the user. Applicant's specification, page 2, lines 20-24; page 10, line 24 to page 11, line 8; page 14, lines 7-9; Figure 4, item 418; Figure 5, item 518.

The program of claim 17 further comprises logic configured to receive user responses to the query. Applicant's specification, page 11, lines 12-13; page 14, lines 10-12; Figure 4, item 420; Figure 5, item 520.

The program of claim 17 further comprises logic configured to characterize the use of the user based upon the user responses. Applicant's specification, page 11, lines 15-18; page 14, lines 10-12; Figure 4, item 422; Figure 5, item 522.

The program of claim 17 further comprises logic configured to provide software programs that may be beneficial to the user based upon the characterization of the use. Applicant's specification, page 11, line 23 to page 12, line 2; page 14, lines 12-15; Figure 4, item 424; Figure 5, item 524.

Independent claim 21 describes a method for distributing software for a peripheral device. The method comprises querying a user as to what the peripheral device may be used for. Applicant's specification, page 10, line 24 to page 11, line 8; page 14, lines 7-9; Figure 4, item 418; Figure 5, item 518.

The method of claim 21 further comprises receiving responses from the user. Applicant's specification, page 11, lines 12-13; page 14, lines 10-12; Figure 4, item 420; Figure 5, item 520.

The method of claim 21 further comprises providing software programs for the peripheral device based upon the user responses. Applicant's specification, page 11, line 23 to page 12, line 2; page 14, lines 12-15; Figure 4, item 424; Figure 5, item 524.

Independent claim 25 describes a method for distributing software. The method comprises querying a user as to what the user wants to accomplish. Applicant's specification, page 10, line 24 to page 11, line 8; page 14, lines 7-9; Figure 4, item 418; Figure 5, item 518.

The method of claim 25 further comprises receiving responses from the user. Applicant's specification, page 11, lines 12-13; page 14, lines 10-12; Figure 4, item 420; Figure 5, item 520.

The method of claim 25 further comprises providing software programs based upon the user responses. Applicant's specification, page 11, line 23 to page 12, line 2; page 14, lines 12-15; Figure 4, item 424; Figure 5, item 524.

Independent claim 29 describes a method for distributing software. The method comprises querying a user as to the needs of the user. Applicant's specification, page 10, line 24 to page 11, line 8; page 14, lines 7-9; Figure 4, item 418; Figure 5, item 518.

The method of claim 29 further comprises receiving responses from the user. Applicant's specification, page 11, lines 12-13; page 14, lines 10-12; Figure 4, item 420; Figure 5, item 520.

The method of claim 29 further comprises suggesting software programs based upon the user responses. Applicant's specification, page 11, line 23 to page 12, line 2; page 14, lines 12-15; Figure 4, item 424; Figure 5, item 524.

Independent claim 33 describes a method for distributing software. The method comprises determining tasks a user wishes to accomplish from responses provided by the

user. Applicant's specification, page 10, line 24 to page 11, line 8; page 14, lines 7-9; Figure 4, item 418; Figure 5, item 518.

The method of claim 33 further comprises installing software programs based upon the determination. Applicant's specification, page 12 lines 11-13; page 13, line 23 to page 14, line 2; Figure 4, item 414; Figure 5, 514.

VI. Grounds of Rejection to be Reviewed on Appeal

The following grounds of rejection are to be reviewed on appeal:

1.   Claims 1, 4, 5, 7-12, 14-20, 25-36, 38, 40, and 42 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Parthesarathy, et al. ("Parthesarathy," U.S. Pat. No.

2.   Claim 2, 37, 39, and 41 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy in view of Bradford (U.S. Pat. No. 6,678,679).

3.   Claims 6, 13, and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy in view of Kroening (U.S. Pat. No. 6,859,924).

4.   Claims 3, 21-24, and 44 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy in view of Himmel, et al. ("Himmel", U.S. Pat. No. 6,742,052).

5.   Claim 43 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over <u>Parthesarathy</u> in view of <u>Himmel</u>, and further in view of <u>Bradford</u>.

VII. <u>Arguments</u>

The Appellant respectfully submits that Applicant's claims are neither anticipated under 35 U.S.C. § 102 nor obvious under 35 U.S.C. § 103, and respectfully requests that the Board of Patent Appeals overturn the final rejections of those claims at least for the reasons discussed below.

A.   Claim Rejections - 35 U.S.C. § 102(e)

Claims 1, 4, 5, 7-12, 14-20, 25-36, 38, 40, and 42 have been rejected under 35 U.S.C. § 102(e) as being anticipated by <u>Parthesarathy, et al.</u> ("Parthesarathy," U.S. Pat. No. 6,353,926).

Not every feature of the claimed invention is represented in the Parthesarathy reference. Applicant discusses the Parthesarathy reference and Applicant's claims in the following.

1.   The Parthesarathy Disclosure

Parthesarathy discloses a software update notification method. As is described in the "Summary of the Invention" section of the Parthesarathy reference:

> The invention described herein leverages channel architecture and Open Software Description (OSD) vocabulary to provide a way for the application vendor to subscribe the user to a software update channel that

the vendor can use to notify users of software updates as they become available. At the time of installing the application, the user is prompted to subscribe to the software update channel. A shortcut (.lnk file) that the application installs is created with special information that identifies the application by a unique name. The channel is updated periodically based on the schedule suggested by the channel. When a new update is detected, the software channel delivers the software update to the user's computer and sends notifications by, for example, email or gleaming the icon to indicate that a new software update is now available. Also, the next time the user launches the application through the shortcut (.lnk file), the shell automatically displays the update notification information to the user. [Parthesarathy, column 2, lines 8-25]

Accordingly, Parthesarathy's method alerts users to the availability of software updates. This process is described in more detail in Parthesarathy's Detailed Description. There, Parthesarathy states:

If a new update is detected, in step 106, the software update channel downloads the update information to the user's computer in step 108. When the user next uses the computer or the specific application, the user is notified that a new update is available in step 110. *The computer then queries the user to determine if the user wants to load the new update now* in step 112. *If the user does not want to load the new update, the computer can then inquire if the user may want to load the update in the future* in step 114. If the user does not want to ever load the new update, the computer notes that the update has been received in a registry, in step 116, and returns to step 104 to check periodically for the next software update. However, if it is determined in step 112 that the user wants to load the new update, the new update is loaded in step 118 and the registry is updated to note the version of the software that was loaded in

step 116. The computer then returns to step 104 to periodically check for the next software update. It will be appreciated by one skilled in the art that steps 110, 112, 114, and 118 could be skipped by automatically updating the user's computer every time a new update is detected. [Parthesarathy, column 6, lines 11-31, (emphasis added)]

From the above-provided excerpt, it is clear that the Parthesarathy system queries the user whether he or she would like to load the new update and, if not, queries the user if he or she would like to load the new update in the future. No other querying of the user is described by Parthesarathy.

2. Applicant's Claims

a. Claims 1, 4, 5, 7-9, and 38

Independent claim 1 provides as follows (emphasis added):

> 1. A method for distributing software, comprising:
> *querying a user as to the needs of the user*;
> receiving user responses to the query;
> *characterizing the use of the user based upon the user responses*; and
> *providing software programs* that may be beneficial to the user *based upon the characterization of the use.*

In regard to this claim, Applicant notes that Parthesarathy does not teach or suggest "characterizing the use of the user based upon the user responses" or "providing software programs that may be beneficial to the user based upon the characterization of the use", as recited in claim 1. Instead, the Parthesarathy method simply comprises loading the

update if the user provides permission, and not loading the update if the user does not provide that permission. Parthesarathy says nothing about "characterizing the use" of the user based upon user responses. In fact, Parthesarathy's system and method do not "characterize" any use of the user.

Further, Applicant notes that Parthesarathy does not teach or suggest "querying a user as to *the needs of the user*". Instead, Parthesarathy teaches, and only teaches, asking the user whether the user would like to load an update now, or load the update later. That is, "querying" performed in the Parthesarathy system/method is performed to obtain *permission to load* a system-detected program update. Clearly, such questions do not equate to questioning the user as to his or her "needs".

For at least the foregoing reasons, Parthesarathy does not anticipate claim 1 or any of its dependents.

In the final Office Action, the Examiner argues that Parthesarathy teaches "querying a user as to the needs of the user" as recited in claim 1 by teaching "querying the user to determine whether the user desires to load the new software update". In response, Applicant notes that asking the user if he/she desires to load an update does *not* equate to querying the user "as to the needs of the user". Specifically, the Parthesarathy system simply does not ask the user what the user's needs are. Accordingly, the "querying" identified by the Examiner fails to anticipate "querying a user as to the needs of the user".

As to the limitation "characterizing the use of the user based upon the user responses", it is abundantly clear that Parthesarathy does make *any determination whatsoever* as to the character of the use of the user, either based on the user's responses

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or some other input. Applicant notes that the Examiner does not provide any response on this point in the Response to Arguments section of the final Office Action. The simple explanation for this is that Parthesarathy lacks the disclosure to anticipate that explicit limitation.

With particular reference to dependent claim 8, Parthesarathy does not describe downloading a program from a "storage medium read by the computing device". Instead, programs in the Parthesarathy system are downloaded from the Internet. <u>See</u> description of "browsing environment" of Figures 2 and 3.

b. Claims 10-12, 14-16, and 40

Independent claim 10 provides as follows (emphasis added):

> 10. A system for distributing software, comprising:
> ***means for querying a user as to the needs of the user***;
> means for receiving user responses to the query;
> ***means for characterizing the use of the user based upon the user responses***; and
> ***means for providing software programs*** that may be beneficial to the user ***based upon the characterization of the use.***

In reference to claim 10, Parthesarathy fails to teach or suggest "means for querying a user as to the needs of the user", "means for characterizing the use of the user based upon the user responses", or "means for providing software programs that may be beneficial to the user based upon the characterization of the use" for reasons described above. For at least those reasons, Parthesarathy does not anticipate claim 10 or any of its dependents.

With particular reference to dependent claim 15, Parthesarathy does not describe downloading a program from a "storage medium read by the computing device". Instead, programs in the Parthesarathy system are downloaded from the Internet. See description of "browsing environment" of Figures 2 and 3.

c.   Claims 17-20 and 42

Independent claim 17 provides as follows (emphasis added):

> 17.   A software program stored on a computer-readable medium, comprising:
>
> *logic configured to query a user as to the needs of the user*;
>
> logic configured to receive user responses to the query;
>
> *logic configured to characterize the use of the user based upon the user responses*; and
>
> *logic configured to provide software programs* that may be beneficial to the user *based upon the characterization of the use*.

Regarding claim 17, Parthesarathy fails to teach or suggest "logic configured to query a user as to the needs of the user", "logic configured to characterize the use of the user based upon the user responses", or "logic configured to provide software programs that may be beneficial to the user based upon the characterization of the use" for reasons described above. For at least those reasons, Parthesarathy does not anticipate claim 17 or any of its dependents.

With particular regard to dependent claim 19, Parthesarathy does not teach logic configured to "suggest an alternative selection in response to receipt of a user selection

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that identifies a software program the user already possesses". Applicant notes that no support for the rejection of claim 19 under Parthesarathy was provided by the Examiner.

d. Claims 25-28

Independent claim 25 provides as follows (emphasis added):

> 25. A method for distributing software, comprising:
> *querying a user as to what the user wants to accomplish*;
> receiving responses from the user; and
> *providing software programs based upon the user responses*.

Regarding claim 25, the Parthesarathy system only queries the user for permission to load an update. Parthesarathy fails to teach or suggest "querying a user as to what the user wants to accomplish" or "providing software programs based upon the user responses". That is, the Parthesarathy system simply asks the user for permission to load a system-detected update, with no inquiry as to "what the user wants to accomplish." For at least the above reasons, Parthesarathy does not anticipate claim 25 or any of its dependents.

e. Claims 29-32

Independent claim 29 provides as follows (emphasis added):

> 29. A method for distributing software, comprising:
> *querying a user as to the needs of the user*;
> receiving responses from the user; and
> *suggesting software programs based upon the user responses*.

Referring next to independent claim 29, Parthesarathy fails to teach or suggest "querying a user as to the needs of the user", for reasons described in the foregoing, or "suggesting software programs based upon the user responses". Specifically, Parthesarathy's system makes no suggestions to the user based upon user responses. The only "suggestion" that Parthesarathy's system can be said to make is the implicit suggestion to load an update. Even using such a broad interpretation, however, that "suggestion" is not based upon a user response. Further, there is no inquiry in the system of Parthesarathy about the "needs of the user." The Parthesarathy system simply asks the user permission to load a system-detected update. For at least the above reasons, Parthesarathy does not anticipate claim 29 or any of its dependents.

f.   Claims 33-36

Independent claim 33 provides as follows (emphasis added):

33.   A method for distributing software, comprising:
determining tasks a user wishes to accomplish from responses provided by the user; and
installing software programs based upon the determination.

Regarding claim 33, Parthesarathy fails to teach or suggest "determining tasks a user wishes to accomplish from responses provided by the user" or "installing software programs based upon the determination". Stated simply, Parthesarathy makes no determinations as to what a user wishes to accomplish, and therefore cannot install programs based upon that determination. The Parthesarathy system asks the user for permission to

load a system-detected update, and discloses nothing about "determining tasks a user wishes to accomplish." For at least the above reasons, Parthesarathy does not anticipate claim 33 or any of its dependents.

3. Conclusion

Due to the shortcomings of the Parthesarathy reference described in the foregoing, Applicant respectfully asserts that Parthesarathy does not anticipate Applicant's claims. Therefore, Applicant respectfully requests that the rejection of these claims be withdrawn.

B. Claim Rejections - 35 U.S.C. § 103(a)

1. Rejection of Claims 2, 37, 39, and 41

Claims 2, 37, 39, and 41 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy in view of Bradford (U.S. Pat. No. 6,678,679). Applicant respectfully traverses this rejection.

As is identified above in reference to independent claim 1, Parthesarathy does not teach several of Applicant's explicit claim limitations. In that Bradford does not remedy the deficiencies of the Parthesarathy reference, Applicant respectfully submits that claim 2, which depends from claim 1, is allowable over the Parthesarathy/Bradford combination for at least the same reasons that claim 1 is allowable over Parthesarathy.

As a further matter, Applicant asserts that there is no motivation to modify the Parthesarathy system/method in view of the Bradford reference. Bradford discloses a method and system for facilitating the refinement of *data queries*. Given that Parthesarathy is not conducting a data query and is instead only querying a user to as to whether to load an

update now or later, no "refinement" of Parthesarathy's querying would be seen as desirable to a person having ordinary skill in the art. In view of this, the Examiner fails to state a proper obviousness rejection under 35 U.S.C. § 103(a).

2. Rejection of Claims 6, 13, and 19

Claims 6, 13, and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy in view of Kroening (U.S. Pat. No. 6,859,924). Applicant respectfully traverses this rejection.

As is identified above in reference to independent claims 1, 10, and 17, Parthesarathy does not teach several of Applicant's explicit claim limitations. In that Kroening does not remedy the deficiencies of the Parthesarathy reference, Applicant respectfully submits that dependent claims 6, 13, and 19 are allowable over Parthesarathy/Kroening for at least the same reasons that respective independent claims 1, 10, and 17 are allowable over Parthesarathy.

Turning to the merits of the rejection, Applicant notes that the Examiner states that Kroening teaches "an alternative method of selecting software to download". Applicant asserts that, even if that is true, Kroening still fails to teach "suggesting an alternative selection after receiving a user selection that identifies a software program the user already possesses", as in claim 6 (similar recitations contained in claims 13 and 19). Significantly, Kroening says nothing of such a process in column 7, line 51 to column 8, line 21, which were identified in the Office Action.

3.   Rejection of Claims 3, 21-24, and 44

Claims 3 and 21-24 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy in view of Himmel, et al. ("Himmel", U.S. Pat. No. 6,742,052). Applicant respectfully traverses this rejection.

Both claims 3 and 21 describe querying a user regarding a contemplated use of a device. In claim 3, recited is "querying the user as to how the user plans to use a peripheral device". In claim 21, recited is "querying the user as to what the peripheral device may be used for".

In the outstanding Office Action, it is admitted that Parthesarathy does not teach such querying. However, the Office Action identifies the Himmel reference as providing the missing teaching, and further alleges that claims 3 and 21 would have been obvious under Parthesarathy in view of Himmel. Applicant asserts that Himmel neither teaches querying a user as to a contemplated use of a device, nor provides a teaching that is properly combinable with the Parthesarathy reference.

Himmel discloses a wireless bus system. As is described by Himmel, the wireless bus system is provided in a mobile or desktop computer and is used to discover and accept wireless peripheral devices within the range of the wireless transmissions. Himmel, Abstract.

The Examiner argues that Himmel "teaches querying the user as to how the user plans to use a peripheral device" and cites column 2, line 66 to column 3, line 2 of the Himmel reference for support. That portion of the reference provides as follows:

Alternatively, the method may include informing a user of the computer that the peripheral device has been identified, and querying the user whether to accept and configure the peripheral device.

[Himmel, column 2, line 66 to column 3, line 2]

Clearly, the above excerpt does not teach, as is suggested in the Office Action, "querying the user as to *how* the user plans to use a peripheral device". Instead, as before, the user is merely being asked for *permission* to do something, in this case whether to "accept and configure" a device. Nothing in the cited portion of the Himmel reference even suggests querying a user as to "how" the user will use the device.

As a further matter, nothing in either reference suggests modifying the Parthesarathy system in view of Himmel's teachings. Specifically, there is nothing in either reference, or the remainder of the prior art, that would suggest to a person having ordinary skill in the art, to query a user of Parthesarathy's system as to whether to accept and configure a peripheral device. Again, Parthesarathy's system is used to notify user's of *software updates*, not nearby devices.

4.   Rejection of Claim 43

Claim 43 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Parthesarathy in view of Himmel, and further in view of Bradford.

As is identified above in reference to independent claims 21, Parthesarathy and Himmel do not teach several of Applicant's explicit claim limitations. In that Bradford does not remedy the deficiencies of the Parthesarathy and Himmel references, Applicant respectfully submits that dependent claim 43 is allowable over
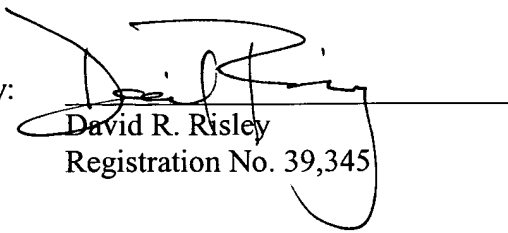
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Parthesarathy/Himmel/Bradford for at least the same reasons that independent claim 21 is

allowable over Parthesarathy/Himmel.

VII. Conclusion

In summary, it is Applicant's position that Applicant's claims are patentable over the applied prior art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,

By: David R. Risley
Registration No. 39,345

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Claims Appendix under 37 C.F.R. § 41.37(c)(1)(viii)

The following are the claims that are involved in this Appeal.

1.   A method for distributing software, comprising:

querying a user as to the needs of the user;

receiving user responses to the query;

characterizing the use of the user based upon the user responses; and

providing software programs that may be beneficial to the user based upon the characterization of the use.

2.   The method of claim 1, wherein querying a user comprises posing at least one multiple choice question to the user.

3.   The method of claim 1, wherein querying a user comprises querying the user as to how the user plans to use a peripheral device.

4.   The method of claim 1, wherein querying a user comprises querying the user via a web site accessible on the Internet.

5.   The method of claim 1, further comprising receiving user selections in response to the provided software programs.

6.   The method of claim 5, further comprising suggesting an alternative selection after receiving a user selection that identifies a software program the user already possesses.

7.   The method of claim 5, further comprising initiating downloading of the selected software programs to a computing device of the user.

8.   The method of claim 7, wherein the software programs are downloaded from a storage medium read by the computing device.

9.   The method of claim 7, wherein the software programs are downloaded to the computing device from a remote source via a network.

10.   A system for distributing software, comprising:

means for querying a user as to the needs of the user;

means for receiving user responses to the query;

means for characterizing the use of the user based upon the user responses; and

means for providing software programs that may be beneficial to the user based upon the characterization of the use.

11.   The system of claim 10, wherein the means for querying the user comprise means for querying the user via a web site accessible on the Internet.

12. The system of claim 10, further comprising means for receiving user selections in response to the provided software programs.

13. The system of claim 12, further comprising means for suggesting an alternative selection in response to receipt of a user selection that identifies a software program the user already possesses.

14. The system of claim 12, further comprising means for initiating downloading of the selected software programs to a computing device of the user.

15. The system of claim 13, wherein the means for initiating downloading comprise means for initiating downloading from a storage medium read by the computing device.

16. The system of claim 13, wherein the means for initiating downloading comprise means for initiating downloading from a remote source via a network.

17.   A software program stored on a computer-readable medium, comprising:

logic configured to query a user as to the needs of the user;

logic configured to receive user responses to the query;

logic configured to characterize the use of the user based upon the user responses; and

logic configured to provide software programs that may be beneficial to the user based upon the characterization of the use.

18.   The software program of claim 17, further comprising logic configured to receive user selections in response to the provided software programs.

19.   The software program of claim 18, further comprising logic configured to suggest an alternative selection in response to receipt of a user selection that identifies a software program the user already possesses.

20.   The software program of claim 17, further comprising logic configured to initiate downloading of the selected software programs to a computing device of the user.

21.   A method for distributing software for a peripheral device, comprising:

querying a user as to what the peripheral device may be used for;

receiving responses from the user; and

providing software programs for the peripheral device based upon the user responses.

22. The method of claim 21, wherein querying a user comprises querying the user via a web site accessible on the Internet.

23. The method of claim 21, further comprising initiating downloading of selected software programs to a computing device of the user.

24. The method of claim 21, wherein the software programs are downloaded to the computing device from a remote source via a network.

25. A method for distributing software, comprising:

querying a user as to what the user wants to accomplish;

receiving responses from the user; and

providing software programs based upon the user responses.

26. The method of claim 25, wherein querying a user comprises querying the user via a web site accessible on the Internet.

27. The method of claim 25, further comprising initiating downloading of selected software programs to a computing device of the user.

28. The method of claim 25, wherein the software programs are downloaded to a computing device from a remote source via a network.

29.   A method for distributing software, comprising:

querying a user as to the needs of the user;

receiving responses from the user; and

suggesting software programs based upon the user responses.

30.   The method of claim 29, wherein querying a user comprises querying the user via a web site accessible on the Internet.

31.   The method of claim 29, further comprising initiating downloading of selected software programs to a computing device of the user.

32.   The method of claim 29, wherein the software programs are downloaded to a computing device from a remote source via a network.

33.   A method for distributing software, comprising:

determining tasks a user wishes to accomplish from responses provided by the user; and

installing software programs based upon the determination.

34.   The method of claim 33, wherein the responses are received in reply to queries posed to the user via a web site accessible on the Internet.

35.   The method of claim 33, further comprising initiating downloading of selected software programs to a computing device of the user.

36.   The method of claim 33, wherein the software programs are downloaded to a computing device from a remote source via a network.

37.   The method of claim 1, wherein querying a user comprises posing a series of questions to the user such that multiple questions are asked of the user.

38.   The method of claim 1, wherein providing software programs comprises automatically installing the software programs to a device of the user without selection of the software programs by the user.

39.   The system of claim 10, wherein the means for querying a user comprise means for posing a series of questions to the user such that multiple questions are asked of the user.

40.   The system of claim 10, wherein the means for providing software programs comprise means for automatically installing the software programs to a device of the user without selection of the software programs by the user.

41.   The program of claim 17, wherein the logic configured to query a user comprises logic configured to pose a series of questions to the user such that multiple questions are asked of the user.

42.   The program of claim 17, wherein the logic configured to provide software programs comprises logic configured to automatically install the software programs to a device of the user without selection of the software programs by the user.

43.   The method of claim 21, wherein querying a user comprises posing a series of questions to the user such that multiple questions are asked of the user.

44.   The method of claim 21, wherein providing software programs comprises automatically installing the software programs to a device of the user without selection of the software programs by the user.

Evidence Appendix under 37 C.F.R. § 41.37(c)(1)(ix)

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

Related Proceedings Appendix under 37 C.F.R. § 41.37(c)(1)(x)

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.